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In the Supreme Court of the United States

October Term, 1979

NOEL CHANDLER and ROBERT GRANGER,
Appellants,

vs.

THE STATE OF FLORIDA,
Appellee.

ON APPEAL FROM THE SUPREME COURT OF FLORIDA

BRIEF OF COMMUNITY TELEVISION FOUNDATION OF SOUTH FLORIDA, INC., THE PUBLIC BROADCASTING SERVICE, THE FLORIDA PUBLIC BROADCASTING SERVICE, INC., AND THE EDUCATIONAL BROADCASTING CORPORATION AS AMICI CURIAE

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INTEREST OF THE AMICI

Public television was created to serve the needs of the American people, and its informing vision has been to meet those needs by providing programming of great social value. Public television has nowhere been more successful in pursuing this vision than with its coverage of America's courtrooms. Its broadcasts of judicial proceedings have advanced the constitutional guarantees of a fair and public trial before one's peers, as well as freedom of the press.

In *Richmond Newspapers, Inc., et al. v. Commonwealth of Virginia, et al.*, 48 U.S.L.W. 5008, at 5012 ("*Richmond News*"), this Court held the public and press enjoy a First Amendment right of access to criminal trials and recognized that "to work effectively, it is important that society's criminal process satisfy the appearance of justice, [citation] and the appearance of justice can best be provided by allowing people to observe it."[1] In today's society people simply cannot attend judicial proceedings in any appreciable numbers; they have long needed a technological surrogate for personal attendance which would facilitate direct observation of the courts.

Public television is uniquely suited to serve as that surrogate. Unfettered by commercial restraints public television can devote, and has devoted, the broadcast time necessary for Americans to observe directly their judicial process. Public television broadcasts of judicial proceedings, often in their entirety and necessarily in context, provide perhaps the only opportunity millions of Americans will have to observe the judicial process.

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1. Many other important goals are served by public television broadcasts of judicial proceedings. See Argument, II.B., *infra*.

Amici curiae Community Television Foundation of South Florida, Inc. (WPBT "Channel 2"), the Public Broadcasting Service ("PBS"), the Florida Public Broadcasting Service, Inc. ("FPBS"), and the Educational Broadcasting Corporation (WNET/Thirteen)[2] have provided programming featuring live and tape coverage of complete courtroom proceedings "elevat[ing] the level of public debate and understanding of our ever more complex local, state, and national activities. . . ."[3]

The public television amici support the state of Florida in this appeal because the *qualified access* granted by Canon 3A(7) is a crucial step toward the attainment of important social goals they were created to serve, taken without compromise of Sixth Amendment rights.

SUMMARY OF ARGUMENT

I.

When in 1965 this Court decided *Estes v. Texas*, 381 U.S. 532 (1965) (*"Estes"*), public television was in its infancy; today it reaches approximately 52 million American

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2. All collectively referred to hereinafter as "the public television amici". WPBT Channel 2 is a public television station for South Florida. PBS is a non-profit membership corporation whose members are most of the public television licensees throughout the United States and its territories. PBS operates a satellite-connected system for distribution of programs to the approximately 288 public television stations across the nation. PBS also provides its member stations with a broad range of support services in such areas as promotion, program development, research, and fund-raising. FPBS is a non-profit corporation in the State of Florida. FPBS provides leadership to the public broadcasting medium in the State and is the formal instrument for regular consultation among its member licensees, aimed at cooperative activities resulting in increased operational efficiency and decreased costs, with the express goal of improving and enhancing the services rendered by its member licensees to the public. WNET Channel 13 is a public television station in New York City.

3. A PUBLIC TRUST: THE REPORT OF THE CARNEGIE COMMISSION ON THE FUTURE OF PUBLIC BROADCASTING 31 (1979) (hereinafter "A PUBLIC TRUST").

households each month. THE PUBLIC TELEVISION AUDIENCE (PBS, May 1980) (Appendix page 1, hereinafter "App."). Over the past 15 years public television has achieved a distinguished record of providing diverse and culturally significant programming to local communities, with a concomitant growth in the public's trust in public television. The value of its contribution to informed public debate on the critical social and political issues of our time is unquestioned. Whether it be coverage of trials, appellate arguments, or, indeed, "gavel-to-gavel" coverage of the Watergate or other Congressional inquiries, public television's participation has enabled the public to see and understand this country's system of law and its legal proceedings.

The central goals of public television have been to act "as a force in the public interest, a display case for the best of America's creative arts, a forum for public debate - advancing the democratic conversation and enhancing the public imagination." A PUBLIC TRUST, *supra,* at 22. Appellants here seek to muffle the democratic conversation and stifle the special voice of public television by the institution of a virtual ban on camera coverage of the judiciary, undoubtedly one of the most significant government institutions in our lives. Public television's special interest in enabling the American public to see, study, and thereby understand this most important of institutions should not be denied.

The development and growth of public television has helped transform the public's perception of television as a communications medium. Today television is regarded by a majority of Americans as the most credible communications medium. Whether the perception of television held by some members of the *Estes* Court was correct in 1965 is not at issue. It is the perception of television held

by the American public today that is determinative. This appeal must be considered in that context.

II.

Florida's present Canon 3A(7) permits camera coverage of judicial proceedings where the presiding judge finds such coverage (i) would not cause disruption of the proceedings, (ii) preserves courtroom decorum, and (iii) would not compromise the fair trial rights of the accused. Canon 3A(7), as so modified, has helped public television to achieve its goal of in-depth reporting of public affairs. Public television has been the principal broadcaster of judicial proceedings in Florida, and no one could reasonably assert that its full and fair coverage of a wide range of judicial proceedings has violated anyone's rights or disturbed courtroom proceedings. Appellants' inflammatory adjectives and adverbs misrepresent public television's clear record, set out *infra*.[4]

The distinguished record of public television coverage of judicial proceedings in Florida demonstrates Canon 3A(7) promotes many of the important constitutional and social values of public trials identified in *Richmond News*.

Television allows people to see and hear for themselves what transpires in the courtroom. The distinctive contribution of public television's broadcasts of judicial proceedings in their entirety is that such coverage directly *communicates the judicial process* to the public; ordinary coverage communicates only the *results of that process*.

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4. Appellants, of course, do not make reference to any specific instance in which public television's coverage of judicial proceedings actually has prejudiced their fair trial rights or those of any other accused.

Only through cameras in the courtroom can the public observe how the trial process works, how testimony is taken, how the rules of evidence function, what roles the participants play, the demeanor of the defendant and witnesses, the quality of the attorneys, and the other existential aspects of the proceedings.

It is most fundamentally the right to observe judicial proceedings that *Richmond News* recognized. Physical presence in the courtroom is unnecessary if the means of seeing and hearing the proceeding are otherwise secure. Public television in Florida does so by broadcasting trials, hearings, and appellate arguments in their entirety. The resultant public observation of the judicial system serves many public interests including (i) the promotion of free discussion of governmental affairs; (ii) fostering of confidence in the system; (iii) implementation of the public's right to know what is happening in the system; (iv) the checking of corrupt practices within the system; (v) improvement in the quality of bench and bar; (vi) protection of the accused from injustice; and (vii) serving as the vehicle by which members of the public may experience a "prophylactic" sense of participation in the system. In certain respects television coverage of trials may be the only effective means of realizing these values.

III.

Revised Canon 3A(7) serves a variety of compelling state purposes, but most importantly Florida's fundamental commitment to open government. The important public interests derived from government open to the people are well within the proper scope of Florida's sovereignty and "police power". Familiar principles of federalism preclude this Court's interference with this fundamental state process.

Revised Canon 3A(7) grants only a qualified right of access and prohibits any coverage interfering with Sixth Amendment interests. In this regard it is important to note Appellants' central argument is the *factual* contention that camera coverage has an inescapable psychological impact on trial participants such that a fair trial cannot be had whenever cameras are present. Yet no *facts* are presented to support this contention.

Estes, properly construed, is consistent with electronic camera coverage in the courtroom because television has evolved into a mature and highly credible communications medium. The television camera's routine use in security systems, banking transactions, teaching, recreation and information gathering has accustomed the public to its presence. Television technology has so advanced that small hand-held cameras can silently monitor judicial proceedings at normal light levels. Many states have accepted the implicit invitation of *Estes* to experiment with camera coverage as technology improves; today more than half the states permit coverage on some basis. These dramatic changes over the past 15 years make the concerns of the *Estes* plurality constitutionally irrelevant and show the propriety of Florida's constitutional right to adopt revised Canon 3A(7).

IV.

Since camera coverage of trials is a "most effective means" of implementing the First Amendment right of the public to observe criminal trials recognized in *Richmond News*, Florida's Canon 3A(7) is a reasonable "time, place and manner" restriction on this right.

Appellants would have this Court substitute an absolute right of the accused to exclude cameras for Florida's reasonable "time, place and manner" restriction. Such an

absolute ban would directly abrogate First Amendment rights (i) by infringing the right of the public to observe trials absent an overriding interest in closure specifically articulated by the trial court, *Richmond News*, at 5025; (ii) by drastically reducing public television coverage of the courts, thereby "limiting the store of information from which members of the public may draw", *First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978); (iii) by drastically reducing the number of people who may observe the courts, *Buckley v. Valeo*, 424 U.S. 1 (1976); and (iv) by discriminating against a medium of communication which may be the "most effective means" of implementing the right to observe trials, without any showing that both a compelling interest justifies such discrimination and that adequate alternative communication channels exist, *Linmark Associates, Inc. v. Town of Willingboro*, 431 U.S. 85 (1977).

ARGUMENT

I. THE INFORMING VISION OF PUBLIC TELEVISION IS TO PROVIDE LOCAL COMMUNITIES ACCESS TO EVENTS, INFORMATION, AND PROGRAMMING OF GREAT SOCIAL VALUE

A. - Public Television Was Conceived To Meet The Need Of Local Communities For Programming Of Great Social Value

1. The Creation Of Public Television

The 1934 Communications Act did not provide for "non-commercial" broadcasting. Not until 1952 "[a]fter great pressure by educational and public groups . . ." did the Federal Communications Commission agree to reserve

some 242 channels for non-commercial television. A PUBLIC TRUST, *supra*, at 33. The pressure for non-commercial television stations broadcasting quality programming of interest to all groups within the local community continued to increase through the years,[5] and by 1979 some 655 channels had been reserved for non-commercial television. *Id.*

Non-commercial television prior to 1965 was broadcast primarily by educational institutions, and not until a substantial demand for educational television developed were non-profit community organizations established to obtain licenses. Funding in those pioneer days was scarce and primarily secured from private contributions, auctions, and foundation support. In 1962 Congress commenced some financial support to educational television. But even that support was limited to $32 million over a five-year period. *Id.* at 34. By the time of *Estes*, educational television was still in its infancy.[6] In 1966 there were

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5. As the Carnegie Report observed:

> Unlike commercial radio and television, most print media, and many new communications services, public broadcasting creates programs primarily to serve the needs of audiences, not to sell products or to meet demands of the marketplace. This ideal demands that public television and radio attract viewers and listeners whose tastes and interests are significant, but neglected or overlooked by media requiring mass audiences. The noncommercial nature of public broadcasting has important implications for its programs, its relations with creative talent, and its mission to unserved audiences.

A PUBLIC TRUST, *supra*, at 25.

6. For example, the budget for Channel 2 in 1966 was $174,000. and its paid membership was less than 6,000. Today, its budget is over $5,000,000. and its paid membership exceeds 52,000 families and individuals. REPORT OF COMMUNITY TELEVISION FOUNDATION OF SOUTH FLORIDA, INC. (WPBT-TV), at 11, filed July 31, 1978 with the Florida Supreme Court pursuant to *In Re Petition of Post-Newsweek Stations, Florida, Inc.*, 347 So.2d 404 (Fla. 1977) (hereinafter "COMMUNITY TELEVISION REPORT").

only 126 struggling educational television stations in the United States; by 1978 there were about 280 public television stations, most of them well financed and managed. A PUBLIC TRUST, *supra,* at 34, 224.

The importance of *public television* was recognized with the creation in 1965 of the Carnegie Commission On Educational Television and its Report two years later. Partially in response to the Carnegie Report, Congress passed the Public Broadcasting Act of 1967, 47 U.S.C. §396 (1967), to provide financial assistance to public television. This Act established an independent Corporation for Public Broadcasting ("CPB") to disburse federally appropriated monies to support public television stations and to finance program development free of governmental interference with public television's content.[7] CPB and the public television stations organized PBS to operate the interconnection for public television stations and to facilitate programming for national distribution. PBS programming and distribution activities began in the fall of 1970. A PUBLIC TRUST, *supra* at 38-39. As a consequence of its unique position, PBS came to occupy a crucial role within the public television system. It provided, as well, additional insulation from government control over programming.

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7. One of the important goals Congress sought to achieve in creating the CPB was that:

> . . . a private corporation should be created to facilitate the development of public telecommunications and to afford maximum protection from extraneous interference and control.

47 U.S.C. Section 396 (1967).

2. The Increase In Funding

Total annual income to public television stations from all sources increased from $58 million in 1965 to $158 million in 1972 and reached approximately $417 million by 1977, the year the Florida Supreme Court decided to initiate the experimental program. A PUBLIC TRUST, *supra,* at 39, 341. This extraordinary financial growth partly reflected an increase in the annual federal support from an average of $6.5 million during the *Estes* period to over $113 million in 1977. *Id.* at 42, 341. But non-federal funding, which constitutes over 70% of public television income, had by 1977 risen to more than $302 million per year. Thus, public broadcasting is primarily funded by state and local communities and viewers, not the federal government.[8] Most important, it is not funded by advertising, but directly or indirectly by the public who watch it.

3. The Growth In Audience

Concomitant with the extraordinary growth in public television's funding has come a remarkable increase in the number of its viewers.[9] By May 1980 public television was reaching 52 million households (68.2% of all households) each month, and families viewing public television were watching it about 9 hours and 25 minutes per month. The public television audience increased 39% from

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8. Local government 7.3%; state government 22.8%; state colleges 8.6%; other colleges .9%; foundations 5.2%; business 9.1%; public television subscribers 10.4%; auctions 3.0%; all others 4.9%; federal government 27.3%. *Id.* at 341.

9. Between 1970 and 1972 alone the total prime-time public television audience increased more than 30%. *Id.* at 40. From 1966 to 1977 the average length of a public television broadcast day increased from 8 hours to 14 hours; subscription income increased 335% from 1972 to 1977; and the number of Americans viewing public television at least once a month increased by 28% between 1973 and 1977, to 63% of all households. *Id.* at 53.

1975 to 1980 and the monthly "prime time" audience increased by 55% over this same period. THE PUBLIC TELEVISION AUDIENCE (App. 1).[10] As the Carnegie Commission stated in 1979:

> . . . public broadcasting has managed to establish itself as a national treasure. From the backwaters of an industry long dominated by commercial advertising, the public system has come into its own. Millions now watch and hear, applaud, and criticize a unique public institution which daily enters their homes with programs that inform, engage, enlighten, and delight. In that sense, the ideal has been realized: public broadcasting has made a difference.

A PUBLIC TRUST, *supra*, at 9. Public television in its use of cameras in Florida courtrooms has worked through "pooling" arrangements with news teams from commercial television—that element of commercial broadcasting with a uniform tradition of excellence—to once again prove itself a "unique public institution".

Americans now watch television for "nearly 6 1/2 hours per day in the average household," A PUBLIC TRUST, *supra*, at 21, and a majority of Americans regard television as their primary, and most credible, source for news.[11] Thus, television, and public attitudes towards it, have dramatically changed since *Estes*. The achievements of public television during this era have been sub-

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10. While the average commercial network's cumulative weekly rating was 90.3 compared to public television's 33, public television's monthly cumulative audience was about 63.2 by 1978. A PUBLIC TRUST, *supra*, at 15, 330; PUBLIC TELEVISION AT 1980 . . . IN THE FOREFRONT (PBS, January 1980) (App. 10).

11. Roper, PUBLIC PERCEPTIONS OF TELEVISION AND OTHER MASS MEDIA (1979); Roper, CHANGING PUBLIC ATTITUDES TOWARDS TELEVISION AND OTHER MASS MEDIA 1959-1976 3 (1977).

stantial, and they—together with the news reporting of commercial stations—have helped to transform the role of television in contemporary society from a too lightly regarded "entertainment" medium to its position today as the primary source of the public's information and culture.

B. Public Television Has Attained A Distinguished Record Of Providing Socially Important Programming To A Substantial Audience In Local Communities Throughout The United States

Public television's programming achievements have been remarkable both in quality and diversity, illuminating science and the physical world around us,[12] celebrating literature and the performing arts,[13] and offering path-breaking contributions to children's television.[14]

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12. Such programming has included *The Ascent of Man; Einstein's Universe; Connections;* a fascinating series of National Geographic programs: the *Incredible Machine,* the *Living Sands of Namid,* the *Great Whales,* the *Mysteries of the Mind,* the *Dive to the Edge of Creation,* the *Legacy of L.S.B. Leaky, The Volga,* and the *Great Apes;* numerous installments of *NOVA;* and underwater explorations with Jacques Cousteau (App. 3, 12-19).

13. In recent years the widely acclaimed Masterpiece Theatre has brought local communities *Disraeli; Poldark I and II;* and *I, Claudius.* Public television placed its cameras inside the famed Metropolitan Opera House for a live full-length performance of the epic opera, *La Boheme,* and has regularly broadcast the nation's finest concerts in series such as *In Performance at Wolftrap,* and more recently, *Live From The Met.* In the Spring of 1979 *The Scarlet Letter* was watched in over 10 million American homes, as was *Live From The Grand Ole Opry* in March 1979. Programs like *The Pallisers,* based on Flaubert's dramatic chronicles and Ingmar Bergman's *Scenes From A Marriage* bring the work of creative artists to local communities throughout the United States, a feat regularly performed in such series as *Visions; Classic Theatre: The Humanities In Drama;* and *The American Short Story* (App. 3, 12-19).

14. Public television has given American children *Sesame Street; The Electric Company; The Best of Families; Once Upon A Classic; Zoom; Mr. Roger's Neighborhood; Que Pasa; Villa Alegre* and *Rebop* (App. 3, 12-19).

As important as these achievements have been, of equal significance has been public television's commitment to in-depth programming analyzing contemporary public affairs. Among the outstanding public affairs programs of recent years have been *The MacNeil/Lehrer Report; Washington Week In Review; Wall Street Week; Firing Line; Ben Wattenberg's 1980; Bill Moyers Journal;* and many special documentary studies of topics of contemporary national and international concern.[15]

Last year public television received no less than 50 national awards and honors.[16] The informing vision of public television is to provide the American public programming of great social value. Cameras in the courtroom must be viewed as part of that vision.

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15. *The Turned-On Crisis* (study of the American drug problem); *The Killers* (study of leading causes of death in America); *Juvenile Court* (study of the juvenile justice system in America); *Drink, Drank, Drunk* (alcoholism); *The Thin Edge* (mental illness); *Harlem: Voices and Faces* (ghetto life); *Why Me?* (breast cancer); the *Senate Select Hearings on the CIA; Welfare* (the welfare state); *Since The American Way Of Death* (high cost of dying); *Presidential Forums, Ford/Carter Debates,* and *U.S.A.: People and Politics* (the 1976 national elections); the *Cabinet Confirmation Hearings In The Senate; California Reich* (neo-nazism); *Canal Zone* (the Panama Canal); *Global Paper* (world hunger); and in 1979 alone *Paul Jacobs And The Nuclear Gang; The Energy War; Palestine; Rizzo; Black Man's Land; Sinai Field Mission, The Japanese; Mr. Speaker: A Portrait of Tip O'Neill; An Act of Congress;* and many more (App. 3, 12-19).

16. PUBLIC TELEVISION AT 1980 . . . IN THE FOREFRONT (App. 18).

II. PUBLIC TELEVISION HAS BEEN A PRINCIPAL BROADCASTER OF JUDICIAL PROCEEDINGS BECAUSE SUCH PROGRAMMING IS OF GREAT SOCIAL VALUE TO LOCAL COMMUNITIES IN FLORIDA AND ELSEWHERE

A. Public Television Has Devoted Substantial Broadcast Time And Reached An Extensive Audience Under Florida's Cameras-In-The-Courtroom Program

Public television was a principal broadcaster of judicial proceedings during the experimental program and continues to be under revised Canon 3A(7). Its extensive coverage of the Florida courts has been serious and socially responsible, and the effects of that coverage wholly positive.

1. Channel 2's Activity Under The Experimental Program

During the experimental program Channel 2 broadcast 85 hours of courtroom coverage. COMMUNITY TELEVISION REPORT, *supra,* at 15. This coverage was in addition to its regular news coverage of the judicial system, and included "gavel-to-gavel" coverage of *Florida v. Zamora*[17] and *Florida v. Herman*;[18] nightly excerpts of Florida Senate Judiciary-Civil Committee Hearings on ethics charges against Dade County State Senator Ralph Poston; several complete sentencing hearings; a complete appellate

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17. Case No. 77-25123A (Fla. 11th Cir. Ct. 1977), *aff'd* 361 So.2d 776 (Fla. 3rd DCA 1978). The trial was for the murder of an 83 year old woman by her 15 year old neighbor. His unique defense was that television programming had "caused" him to commit the crime.

18. Case No. 76-1534-CF (Fla. 15th Cir. Ct. 1977).

oral argument; and excerpts of a major insurance fraud trial. These proceedings could not have been broadcast without the experimental program. COMMUNITY TELEVISION REPORT, *supra*, at Appendix A.

This coverage bears no resemblance to the caricature presented in Appellants' brief. Channel 2's broadcast of 27 hours of the *Zamora* trial and almost 42 hours of the *Herman* trial constituted essentially all the "public" portions of those trials.[19] Approximately 8 hours of the Senate Judiciary hearings and 3-1/2 hours of the auto insurance fraud trial were broadcast. The appellate arguments and the sentencing hearings were broadcast in their entirety. COMMUNITY TELEVISION REPORT, *supra*, at 15-22. The proceedings were carefully presented in context, and in an unsensational manner:

> Extensive coverage of criminal trials included not only the most important portions of the trials, but also the slow, step-by-step process of refining the legal issues for consideration by the jury.

COMMUNITY TELEVISION REPORT, *supra*, at 15. Thus, public understanding of the criminal justice system was facilitated.

> Fast zooms and pans with the camera were avoided so as not to "dramatize" the trials. Although the broadcasts included a background of the case and definitions of legal terminology, viewers were told they were not seeing the entire trial, and that it would be impossible for them to determine the guilt or innocence of the accused.

Id. This was no "trial by television".

The televised cases "were chosen for coverage either for their newsworthiness or because they had special edu-

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19. COMMUNITY TELEVISION REPORT, *supra*, at Appendix A.

cational value." *Id.* Thus the *Zamora* case was selected by Channel 2 for full coverage because: (i) it was the first major trial in Dade County after commencement of the experimental program; (ii) crime against the elderly was, and is, a matter of widespread public concern; and (iii) the legal defense presented raised important questions of public policy. The *Herman* trial was widely considered to be one of the more significant recent cases in the Palm Beach area.

Public television's coverage of the *Zamora* and *Herman* trials had no discernible negative effect on the trial process:

> WPBT provided a pool camera, and other broadcast media were free to record or broadcast live any portions of the coverage. Videotape recorders were set up in a special conference room, and many of the eighty press representatives viewed the trial over the remote monitors. A court liaison [was appointed] to help solve any logistical problems.
>
> . . .
>
> Virtually all participants in both the *Zamora* and *Herman* trials stated that presence of television was not disruptive or distracting. . . . A survey conducted by Florida Technological University of the trial participants in the *Herman* trial confirmed the comments received by WPBT that the presence of television does not disrupt trial proceedings.

COMMUNITY TELEVISION REPORT, *supra*, at 18, 19.

The viewing audience was substantial, and the overwhelming reaction of the public was that it had learned much from the broadcasts.[20]

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20. Both trials were viewed by extensive public television audiences: 75,000 to 125,000 people in the Miami area watched the nightly programs on the *Zamora* trial while

(Continued on following page)

Furthermore, the resulting trial tapes have had educational usage:

> The *Zamora* broadcast formed the basis of a documentary, "TV on Trial", that was broadcast nationally on May 23, 1978. In addition, excerpts of the trial were broadcast by the Canadian Broadcasting Corporation, the British Broadcasting Corporation and a Dutch television network.
>
> . . . [C]ountless inquiries [have been] received by WPBT since the broadcast of the *Zamora* trial from law schools, universities, high schools, attorneys, judges and news organizations around the country. . . .

Id. at 20.

Channel 2 "received widespread praise for the manner in which it conducted courtroom coverage", and the Florida Bar's highest honor for media coverage. *Id.* at 21.

The trial judges who handled the *Zamora* and *Herman* cases (the latter an outspoken opponent of cameras-in-the-courtroom), and all other judges with such extensive experience, reported no adverse impacts from television coverage. As the *Herman* trial judge grudgingly admitted, "There were no histrionics and no thespians. . . . The attorneys, witnesses and all interested parties were properly behaved. . . . [T]he experiment of fully televising the *Herman* trial worked out much better than the court believed possible." *Id.* at 10. *See* Sholtz, *"Florida v. Her-*

Footnote continued—

> the *Herman* audience varied between 30,000 and 66,000. Viewer response was overwhelmingly positive. 97% of the approximately 2,500 calls and letters received by WPBT during coverage of the *Zamora* trial were favorable. Approximately two-thirds of the calls and letters received during the *Herman* trial were also favorable, and most of the objections were from viewers complaining about the pre-emption of regularly scheduled programming.

Id. at 20.

man: Report To The Supreme Court Of Florida Re: Conduct Of Audio-Visual Trial Coverage", at 14-15.[21]

As Judge R.A. Green stated in his report to the Florida Supreme Court:

> During the past years, I have had occasion to sit in hearings and trials during which cameras and electronic media were in the courtroom. Whether we are speaking of still photographers for newspapers, electronic tape recording for use on radio news, or television cameras for use for any purpose in television, I have had not one untoward experience.

R.A. Green, "Response of One Judge of Trial Jurisdiction Pursuant to Invitation" (July 21, 1980).

2. Channel 2's Activity Under Revised Canon 3A(7)

Since the adoption of Canon 3A(7), Channel 2's principal courtroom coverage has been its broadcast of *Florida v. Jones,* the prosecution of the black superintendent of the Dade County school system, now the fifth largest system in the country. Full coverage was, again, the approach with 40 hours of coverage (virtually the entire "public" portion of the trial) broadcast to the community. Again the response was overwhelmingly favorable.[22]

3. Broadcast Activity Of The Florida Public Television Stations

Other public television stations in Florida have been extremely active in bringing the public a broad spectrum

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21. For the *Zamora* trial judge's favorable report, *see* Baker, "Report To The Supreme Court Of Florida Re: Conduct Of Audio-Visual Trial Coverage"; Baker, "*Florida v. Zamora*: Report To The Supreme Court Of Florida Re: Conduct Of Audio-Visual Trial Coverage".

22. Memorandum Re: Cameras In The Courtroom (Channel 2, July 18, 1980) (App. 4).

of judicial proceedings. The Florida Public Broadcasting Network has aired oral arguments in the Florida Supreme Court involving the death penalty, the safe driver incentive plan, and the Florida Environmental and Land Management Act; proceedings relating to the constitutional revision of Merit Retention and the Commissions on Appellate Court Structure and on Florida Supreme Court Jurisdiction; clemency hearings; a significant state land-use case; and, from July 29 through July 31, 1979, WFSU (Tallahassee) broadcast 11 hours of coverage of *State v. Theodore Bundy* (App. 6-8).

B. Broadcast Activity Of Public Television Around The Country

Public television stations around the country have broadcast judicial proceedings in depth or in their entirety, where state law has permitted it. For example, in April 1980, WNET/Thirteen arranged for the coverage and the broadcast of one day's proceedings before the New York Court of Appeals. The resultant program, *Three Appeals,* has been shown not only in New York, and over public television stations nationally, but by bar associations and educational institutions. Citing this program, new court rules ending New York's absolute ban on cameras in the courtroom are being drafted by New York's administrative judge at the request of the Chief Judge of the New York Court of Appeals. While no formal survey has been made, some of the more recent highlights of other such coverage, which are matters of public record, include the gavel-to-gavel coverage of the three-week trial of the President of the City Council for Cleveland, Ohio by WVIZ, Cleveland; the broadcast by WMVT, Milwaukee of a judicial misconduct hearing held on June 27, 1980 before the State Supreme Court and a two-week murder trial in December 1978; coverage by WNEO and WEAO, Ohio, of the indictment and trial from June 9 through June 13, 1980, of a county judge for corrupt

practices; the broadcast by WWVU, West Virginia on October 4, 1979 of a 90-minute special on the juvenile justice system broadcasting substantial segments of juvenile proceedings. And on July 24, 1980, KAKM, Anchorage, began "gavel-to-gavel" coverage of State Supreme Court proceedings.

C. Public Television's Broadcast Coverage Of Judicial Proceedings Is Programming Of Great Social Value

Public television coverage of Florida judicial proceedings permits the people to observe their courts in action. The many socially important interests advanced by such observation have been identified by this Court in numerous decisions:

(1) Public access to the courts promotes free discussion of governmental affairs by imparting a more complete understanding to the public of the judicial system. *Richmond News,* at 5012-14; *Landmark Communications, Inc. v. Virginia,* 435 U.S. 829, 838-840 (1978); *Mills v. Alabama,* 384 U.S. 214 (1966). In *Richmond News* this Court acknowledged the crucial role of the electronic media in effectuating the public's right to attend trials:

> With the press, cinema, and electronic media now supplying the representations or reality of the real life drama once available only in the courtroom, attendance at court is no longer a widespread pastime. . . . Instead of acquiring information about trials by firsthand observation or by word of mouth from those who attended, people now acquire it chiefly through the print and electronic media. In a sense, this validates the media claim of functioning as surrogates for the public. [M]edia representatives . . . "contribute to public understanding of the rule of law and to comprehension of the functioning of the entire criminal justice system. . . ."

Richmond News, at 5012-5013; *Id.* at 5014 n. 12. To the same effect, *see Cox Broadcasting Corp. v. Cohn,* 420 U.S. 469, 491-2 (1975).

(2) Such public access gives "the assurance that the proceedings were conducted fairly to all concerned". *Richmond News,* at 5012. This Court acknowledged the "nexus between openness, fairness, and the perception of fairness" and that "the means used to achieve justice must have the support derived from public acceptance of both the process and its results". *Id.*

(3) Aside from any beneficial consequences which flow from having open courts, the people have a right to know what occurs in their courts. This Court has noted that "a trial is a public event. What transpires in the courtroom is public property." *Craig v. Harney,* 331 U.S. 367, 373, 374 (1947), and cases collected in *Richmond News,* at 5013 n. 9.

(4) Public access also serves as a check on corrupt practices by exposing the judicial process to public scrutiny. *Richmond News,* at 5012; *Nebraska Press Asso. v. Stuart,* 427 U.S. 539, 559-60 (1976); *Cox Broadcasting v. Cohn,* 420 U.S. 469 (1975); *Sheppard v. Maxwell,* 384 U.S. 333 (1966).

(5) Public access protects the right of the accused to a fair trial. *Richmond News; Gannett Co. v. DePasquale,* 443 U.S. 368 (1979). Appellants argue television access inherently violates the Sixth Amendment rights of the accused. The reverse is true. The fair trial interests served by open judicial proceedings are enhanced by public television coverage because reaching the larger audience with visual coverage of complete trials increases the chance new witnesses might come forward and perjury and other misconduct will be deterred. *See Richmond News,* at 5012 *et*

seq. There is no evidence television coverage has any negative impact on Sixth Amendment rights (*see* Argument III, *infra*).

(6) Because lawyers, witnesses, and judges who participate know their conduct will be subject to public scrutiny, it is fair to conclude they will be more conscientious in the performance of their roles. In *Richmond News,* this Court noted no less an authority than Jeremy Bentham had concluded "that open proceedings enhanced the performance of all involved." *Id.* at 5012 n. 7.

(7) Finally, in *Richmond News* this Court found public access served a great "therapeutic" or "prophylactic" purpose by providing an "outlet for community concern, hostility and emotion. Without an awareness that society's responses to criminal conduct are underway, natural human reactions of outrage and protest are frustrated and may manifest themselves in some form of vengeful self-help. . . ." *Richmond News,* at 5012. Note, *Trial Secrecy and the First Amendment Right of Public Access to Judicial Proceedings,* 91 HARV.L.REV. 1899, 1906-1909 (1978).

Appellants would have this Court constitutionally limit television to secondhand reporting of judicial proceedings. But such coverage can report only the *results of judicial proceedings,* while camera coverage of the courtroom advances the foregoing interests by communicating *the judicial process itself.* Public television's coverage of trials, hearings and other proceedings, in their entirety, enables the public to observe how the trial process works, what functions the participants serve, and how well they serve them. Public television's coverage in Florida under the experimental program and revised Canon 3A(7) has been geared *to explain, as well as report, the trial process.* The demeanor and intonations of the witnesses, the compe-

tency of the lawyers and the judge, and the mechanics of the rules of evidence are all communicated.

Without cameras, information as to how the process works can be conveyed to the public only by personal attendance in court. If understanding is the object of communication, then there is no alternative channel of communication which can adequately replace television coverage of the courtroom.

Finally, public television is the only means for achieving the "prophylactic effect" of participation in the ritual of public justice. *See Richmond News*, at 5012.

III. FLORIDA'S ADOPTION OF CANON 3A(7) IS A PROPER EXERCISE OF THE POLICE POWER AND CONSISTENT WITH SOUND PRINCIPLES OF FEDERALISM

A. The Adoption Of Canon 3A(7) Is An Integral Element Of Florida's Broad Commitment To "Open Government"

The Florida Supreme Court modified Canon 3A(7) only after an exhaustive study and a year-long experimental program had been conducted.[23] Its action is an integral element of Florida's continuing commitment to government open to the people. Pursuant to this commitment the Florida Legislature has enacted expansive public records,[24] open meetings,[25] and financial disclosure[26] laws. These broad statutes have been construed liberally in favor

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23. *In Re Petition of Post-Newsweek Stations, Florida, Inc.*, 370 So.2d 764 (Fla. 1979).

24. Chapter 119 Fla.Stat. (1979).

25. Section 286.011 Fla.Stat. (1979).

26. Sections 112.313, 112.3141, 112.3143, 112.3145, 112.3146 Fla.Stat. (1979).

of disclosure by Florida's judiciary[27] and interpreted generously by the Executive Branch of the State government.[28] The people of Florida have enacted Constitutional "sunshine" provisions,[29] and the proceedings of both the executive and legislative branches are covered by television cameras.[30]

Because of Florida's strict Separation of Powers doctrine, opening the judicial system to public scrutiny has been left to the Florida Supreme Court. That Court has enacted more stringent financial disclosure requirements for the judiciary than were enacted by the legislature[31] and has opened Florida judicial proceedings to the public.[32]

As the Supreme Court explicitly stated, Canon 3A(7) is a "sunshine law" for the Florida judiciary, enacted to secure the welfare of the people of Florida:

> The prime motivating consideration prompting our conclusion [to revise Canon 3A(7)] is this state's commitment to open government.

In Re Petition of Post-Newsweek Stations, Florida, Inc., supra, at 370 So.2d 780. The Court noted fears comparable to those raised by Appellants were expressed when tele-

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27. *See, e.g., Town of Palm Beach v. Gradison,* 296 So.2d 473, 477 (Fla. 1974) (open meetings); *City of Miami Beach v. Berns,* 245 So.2d 38 (Fla. 1971) (open meetings). In *Wait v. Florida Power & Light Co.,* 372 So.2d 420 (Fla. 1979), the Florida Supreme Court held only government documents specifically exempted by statute are not public records and that courts could not create any common law exemptions thereto.

28. OFFICE OF THE ATTORNEY GENERAL, FLORIDA OPEN GOVERNMENT MANUAL (1978).

29. Art. II, §8, Fla.Const.

30. *See In Re Petition of Post-Newsweek Stations, supra,* at 370 So.2d 780.

31. *In Re The Florida Bar,* 316 So.2d 45 (Fla. 1975).

32. In *State of Florida ex rel. Miami Herald Publishing Company, et al. v. McIntosh,* 340 So.2d 904, 908 (Fla. 1977), the court held ". . . the public and the press have a fundamental right of access to all judicial proceedings."

vision coverage of the Florida Legislature commenced—fears vitiated by experience—and added:

> The court system is no less an institution of democratic government in our society. Because of the courts' dispute resolution and decision-making role, its judgments and decrees have an equally significant effect on the day-to-day lives of the citizenry as the other branches of the government. It is essential that the populace have confidence in the process, for public acceptance of judicial judgments and decisions is manifestly necessary to their observance.

Id. It is difficult to imagine a more imposing array of state interests than those served by Florida's commitment to "open government."[33]

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33. These interests were ably summarized by the court in *Krause v. Reno*, 366 So.2d 1244, 1250-51 (Fla. 3rd DCA 1979):

> Among the important public aspects to be served by open meetings of governmental bodies are the following: First, there is the citizen input factor. . . . "[e]very meeting of any board, commission, agency or authority of a municipality should be a marketplace of ideas, so that the governmental agency may have sufficient input from the citizens who are going to be affected by the subsequent action of the municipality." Second, in addition to this need for citizen input, representative government requires that it be responsive to the wishes of the governed, because that is its ultimate source of consent. Third, open meetings produce stability and public confidence in government. Fourth, open meetings reported by the news media insure that our system of government will function as a genuine participatory democracy, i.e., the governed have a right to participate in their government. A fifth interest served by open meetings is the "checking effect" that open meetings have on government abuses. Meetings in public facilitate this "checking value." Even if most persons are unable to attend such meetings, they allow the news media to "watchdog" the conduct of public officials. Another interest to be served by open meetings is the public can better evaluate public officials and their projects by being privy to the decision-making process. . . . Also, public access to governmental meetings enables members of the public to understand more completely the decision-making processes of government and thereby consider future governmental developments and the consequences of those developments for their own lives.

B. Florida's Canon 3A(7) Does Not Violate The Sixth Amendment Rights Of Appellants

Under our system of "federalism" a state need not adopt criminal procedures identical to those required in the federal courts.[34] The states may afford the accused greater protection than the federal constitution requires[35] and may extend greater protection to communication and expression than is mandated by the federal constitution.[36] Canon 3A(7) may provide greater protection to communication rights than does the federal system, but it also extends greater protection to the accused in that all of his Sixth Amendment public trial interests are enhanced by television coverage under the Canon.

Appellants argue cameras in the courtroom inherently prejudice Sixth Amendment rights. Appellants do not rely on the historical intent of the Framers for this proposition, or show camera coverage is logically inconsistent with the right to a fair trial. Instead they claim the presence of television cameras in the courtroom has such a psychological impact on trial participants they cannot function so as to preserve the accused's right to a fair trial. But this is a *factual* argument and no *facts* have been adduced to support it.[37] Appellants are reduced to asserting some jurors

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34. *Apodaca v. Oregon*, 406 U.S. 404 (1972); *Johnson v. Louisiana*, 406 U.S. 356 (1972); *Williams v. Florida*, 399 U.S. 78 (1970).

35. See Cases collected in Wilkes, *The New Federalism In Criminal Procedure Revisited*, 64 KENTUCKY L.J. 729 (1976); and Wilkes, *The New Federalism In Criminal Procedure: State Court Evasion of The Burger Court*, 62 KENTUCKY L.J. 421 (1974).

36. *Prune Yard Shopping Center v. Robins, et al.*, 48 U.S.L.W. 4650 (June 9, 1980); *Gannett Co. v. DePasquale, supra*, 61 L.Ed.2d at 630.

37. "Actual prejudice" is the only constitutionally relevant consideration where First Amendment interests are to be balanced. *Nebraska Press Asso. v. Stuart*, 427 U.S. 539 (1976); *Murphy v. Florida*, 421 U.S. 794 (1975); *Irvin v. Dowd*, 366 U.S. 717 (1961).

may feel self-conscious or may attribute special importance to televised proceedings, but neither self-consciousness nor the realization of "importance" equals prejudice.[38]

Appellants apparently believe that under *Estes* they need make no showing of prejudice, but *Estes* was predicated on the assessment of a technological level and the finding of a social perception now long outdated. Aside from the change in television as a medium, and in the public's perception of it described *supra*, the cameras used by Channel 2 today require only 50 foot candles of light, run silently, and weigh only a few pounds.[39]

Appellants and amici also urge that "privacy rights" will be compromised by television access. This argument proves too much. If accepted, it would require "private trials", and no such right exists.[40] Thus, Appellants' arguments are without merit.

IV. FLORIDA'S CANON 3A(7) EFFECTUATES THE PUBLIC'S FIRST AMENDMENT RIGHT TO OBSERVE TRIALS

Television is a medium protected by the First Amendment,[41] and the First Amendment right to observe trials was recognized by this Court in *Richmond News*. The Florida Supreme Court has promulgated Canon 3A(7) as

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38. *U.S. v. Haldeman, et al.*, 559 F.2d 31 (D.C.Cir. 1976), *cert. denied* 431 U.S. 933 (1977); *Calley v. Callaway*, 519 F.2d 184 (5th Cir. 1975), *cert. denied* 425 U.S. 911 (1976).

39. COMMUNITY TELEVISION REPORT, *supra*, at 9 n. 1. Cameras used by public television today have fine tuning white lights which illuminate when the camera begins to function, but these may be disconnected and are not noticeable.

40. *Richmond News*, at 5015; *Gannett v. DePasquale*, *supra*, 61 L.Ed.2d at 623.

41. *Herbert v. Lando*, 441 U.S. 153 (1979); *CBS v. Democratic National Committee*, 412 U.S. 94 (1973).

a reasonable "time, place, and manner" restriction on this medium's coverage of judicial proceedings.[42] Appellants would have this Court, absent any showing that Sixth Amendment rights will be compromised, invalidate Florida's reasonable "time, place, and manner" regulation of television coverage, and substitute for it an absolute Sixth Amendment right to exclude cameras.

Such a prohibition would be inconsistent with well-settled First Amendment doctrine:

(1) In *Richmond News* this Court held that the First Amendment right to observe trials may be abridged only where the trial court articulates in findings an overriding interest. *Id.* at 5015. No findings of an overriding interest were made here; in fact, Appellants have made no showing at all. *Richmond News* grants a right not only to attend trials, but also to see and hear the proceedings. As such, that right of sight and hearing, by whatever means, is protected.

(2) The exposition of past public television broadcasts of court proceedings shows the ban on camera coverage would impermissibly limit "the stock of information from which the public may draw"[43] and the disseminaton of such information.[44] Public television broadcast hundreds of hours of judicial proceedings to the public, and will continue to do so. If Canon 3A(7) is invalidated such ex-

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42. *See Richmond News*, at 5014; *Consolidated Edison Company of New York, Inc. v. Public Service Commission of New York*, 48 U.S.L.W. 4776, 4777 (June 17, 1980).

43. In *First National Bank of Boston v. Belotti*, 435 U.S. 765 (1978), this Court held invalid restraints reducing the stock of expression available to the public.

44. In *Buckley v. Valeo*, 424 U.S. 1 (1976), this Court invalidated federal legislation which curtailed the audience expression could reasonably be expected to reach.

pression could not be aired, and public television would be virtually eliminated as a special source of information concerning the judiciary. Since public television communicates the judicial process to a far larger number of people than are able to attend judicial proceedings, the dissemination of such information will be radically curtailed.

(3) The prohibition of cameras in the courtroom would discriminate against perhaps the most effective means of communicating the judicial process to the public without any showing that a compelling state interest justifies such discrimination and without any showing ample alternative channels for communicating the judicial process exist.[45]

(4) Appellants argue that television broadcasts will not properly represent the courts to the public. Prohibition on that ground would be impermissible censorship.[46]

Restrictions on First Amendment rights must be narrowly drawn.[47] The Florida Supreme Court has so drawn Canon 3A(7) and there is no basis for this Court to impose an absolute restraint on activity so clearly protected by the First Amendment.

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45. *Linmark Associates, Inc. v. Town of Willingboro*, 431 U.S. 85 (1977).

46. *Miami Herald Publishing Co. v. Tornillo*, 418 U.S. 241 (1974); *Craig v. Harney*, 331 U.S. 367 (1947).

47. *Consolidated Edison Co. v. Public Service Commission*, *supra*.

CONCLUSION

For the foregoing reasons, the judgment of the Supreme Court should be affirmed or the appeal dismissed for lack of a substantial federal question.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY, true copies of the foregoing Brief of Community Television Foundation of South Florida, Inc., the Public Broadcasting Service, the Florida Public Broadcasting Service, Inc., and WNET as Amici Curiae were served by mail upon the following this 18th day of August 1980:

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APPENDIX

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May 1980

THE PUBLIC TELEVISION AUDIENCE

Size

More than two out of three American TV households (68.2%) tune to public television in the course of a month. That's about 52 million households, as reported by A.C. Nielsen for March 3 - March 30, 1980. More than 35 million households nationwide tune to public television on a weekly basis, representing a little over 46% of all U.S. TV homes. Moreover, people are watching public television more often than ever before. Families that view public television watch an average of almost 9 hours and 25 minutes on a monthly basis--an hour and a half more than they did just two years ago (March 1978).

Audience Growth

Public television's monthly audience has increased a dramatic 39% over the past five years (March 1975 - March 1980). In prime time alone (8:00 p.m. - 11:00 p.m.), the monthly public television audience has climbed 55% since 1975. This means that over 38 million American households now turn to public television for their evening viewing during a month.

Who Watches

The diversity, as well as the overall size, of public television's audience has also been growing. In terms of race, occupation, family size and geographic location, public television's audience represents a broad spectrum of the national demographic profile. Most significant of all is that some of public television's greatest gains in recent years were in those population groups that have been among the least represented in the PTV audience. In the past, public television has been somewhat skewed upward in terms of education and income. But in just the past five years, households with incomes of less than $10,000 and homes headed by individuals with less than a high school education have increased by about a third (28% and 34%, respectively) Today, more than half of all homes that fall in these categories are regular watchers of public television.

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The demographic profile of public television's nationwide audience as measured over a full month (March 1980):

	% of All U.S. TV Households	(Distribution)* % of Homes Viewing PTV	(Penetration)** % of Group Watching PTV
RACE			
White	87.8	89.1	68.9
Non-White	12.2	10.9	60.9
FAMILIES WITH...			
No Children	58.6	54.8	63.9
Children 12-17	20.4	20.7	69.5
Children 6-11	19.8	21.6	74.5
Children Under 6	18.2	21.1	79.3
FAMILIES HEADED BY PERSON...			
Who Didn't Finish High School	33.0	26.9	54.3
With 4 Years of High School	33.5	34.6	68.6
With 1-3 Years of College	15.5	16.5	72.7
With College Degree	18.0	22.1	81.3
FAMILIES HEADED BY...			
Professional/Manager	22.5	26.3	78.7
Clerical/Salesman	13.5	13.0	65.9
Blue Collar Worker	35.4	34.6	65.9
Not in Labor Force	28.7	26.1	61.2
FAMILIES WITH ANNUAL INCOME...			
Less than $10,000	32.3	25.4	52.5
$10,000-$14,999	16.0	16.5	68.8
$15,000-$20,000	15.7	16.6	72.1
$20,000+	36.1	41.5	76.8
FAMILIES LIVING IN...			
Northeast	24.0	27.6	78.4
East Central	15.0	12.8	58.1
West Central	17.3	18.7	73.7
South	27.4	24.3	60.5
Pacific	16.4	16.5	68.8

*Distribution: Distribution is the percentage any given group comprises of the total number of households that view PTV. For example, of all households that view PTV, 10.9% are made up of non-white families.

**Penetration: Is the degree (expressed as a percentage) to which PTV viewing occurs in any given group in the U.S. Population. Using the same example, of all non-white households in the nation, 60.9% watch public television.

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Program Ratings

Public television's philosophy toward maximizing its audience is different from the approach taken by its commercial counterparts. Commercial broadcasters must aim their programming toward the widest possible audience in order to generate maximum advertising revenues. Public television feels it has a larger mandate. It too should provide service to the general public--a responsibility all broadcasters have. But public television believes it must also serve the many smaller and special publics with programming that may or may not attract large audiences. Accordingly, public television strives to reach the largest audience it can for any given program. Sometimes, in the case of general audience programs, that objective becomes the widest possible reach. Other times, it may mean all minority viewers or homes with young children of Hispanic families or hearing-impaired viewers. Public television does not necessarily strive to reach every American household all of the time, but it does hope to reach most of the public at least some of the time.

While the average prime time public television program is viewed by about 2% of all TV households, many general audience programs with high quality production values and well-funded promotion campaigns have reached much larger audiences. For example, among some of the most popular public television programs: THE NATIONAL GEOGRAPHIC SPECIAL "The Incredible Machine" was seen by more than 11 million families (16.0% of all households) when it premiered in late 1975; LIVE FROM THE GRAND OLE OPRY was watched by over ten million familes (14.6% rating) when it aired March 1979; and THE SCARLET LETTER--a four-part series--had a cumulative national audience of a little over 10 million homes (13.7% rating) when it was aired in the Spring of 1979. Science programs, like EINSTEIN'S UNIVERSE (7.3% rating); musical specials like the BIG BAND BASH (6.1%); and the weeknightly public affairs series, THE MACNEIL/LEHRER REPORT (6.9%), have all demonstrated the potential for gaining larger audiences for general programming on public television.

memorandum

TO: Parker Thomson

FROM: Linda O'Bryon LO.

SUBJECT: Cameras in the Courtroom DATE: July 18, 1980

cc: John Felton, George Dooley

Here is some of the information you requested. We are continuing to research other Florida public stations for their experiences with cameras in the courtrooms.

WPBT COVERAGE OF THE STATE OF FLORIDA VS. JOHNNY L. JONES

From the selection of the jurors to the rendition of the verdict, each night during the trial of Johnny L. Jones, WPBT provided virtually complete coverage of the day's proceedings. A total of almost forty hours was boradcast from the opening day on April 21, 1980, to the trial's conclusion on April 30. Only procedural matters and lengthy sidebar conferences were deleted from the presentation.*

Channel 2 provided the pool feed to other local stations, following the guidelines of the Florida Supreme Court ruling permitting cameras in the state's courtrooms.

The Johnny Jones case received extensive pre-trial publicity, in what the news media dubbed, "the gold-plumbing caper." Once the trial was underway. the jury was sequestered and instructed not to watch the televised coverage or read newspaper accounts of the proceeding. Jones was the first black to be appointed Superintendent of the Dade County School System, the fifth largest school system in the nation. Jones was charged and found guilty of second-degree grand theft.

The trial generated strong interest and concern in the entire community, and Jones's conviction by an all-white jury further aroused public debate of questions of whether blacks were obtaining equal justice in the criminal justice system.

Channel 2 received hundreds of phone calls during the coverage, and on one night when the trial coverage was delayed from earlier scheduled time by one hour, about 500 calls came in from people who wished to view the trial. We counted a total of 233 letters regarding the coverage -- and of those 183 were favorable, or about 80 percent. Most of those viewers who had negative responses were concerned about pre-emptions of regularly-scheduled programming.

Following the trial, Channel 2 began post-production on a one-hour presentation of the highlights of the trial. This presentation will be used for awards entries and as a permanent record of the trial segments.

* Each night's broadcast began at 8:00 or 9:00 p.m. and ran uninterrupted for up to five hours. Channel 2 news anchors provided the lead-ins and bridges using an objective reporting style, with no analysis or commentary.

2

WFSU TALLAHASSEE

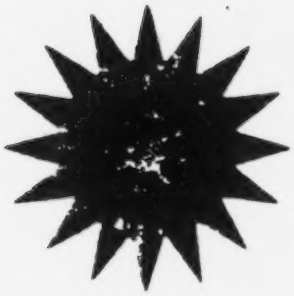
WFSU produced a total of 11 hours of coverage of the murder trial of Theodore Bundy, who was tried in Miami. WFSU was the pool camera for the other television stations and networks. From July 29, 1979 to July 31, the station produced 18 half-hour programs, on the highlights of the day's events. The station provided live coverage of the publishing of the verdict and a two-hour live broadcast of the sentencing. The 18 half-hour programs ran on all Florida public stations, except in Miami where Channel 2 opted not to run the coverage. A total of 16 stations outside the state ran the entire programs(these were all public stations). And, the networks &commercial stations in cities around the nation used brief segments of the pool coverage for local and national newscasts.

Producer Ed Hula says the coverage aired from 7:30 to 8:00 p.m. in Tallahassee and at 11:00 p.m. in most other markets. The live coverage of the verdict and sentencing was carried only in Tallahassee. Hula says the average share for the coverage was a 33 or 34, and he will look into the total number of viewers figure and call back with that information.

FLORIDA PUBLIC BROADCASTING -- Based in Tallahassee
providing regular news feeds and public affairs' programming to the Florida public stations.

Harold Baker, who heads up FPB, listed the following programs or segments FPB has broadcast on the Florida Supreme Court proceedings:

- Several execution hearings
- Oral arguments on environmental concerns regarding estuaries around the Ft. Myers area. This half-hour program included segments from the Florida Supreme Court.
- Safe-driver incentive plan (12 to 15 minutes)
- State-Land Acquisition segment
- Half-hour documentary on death with dignity, with oral arguments before the Supreme Court on that issue.
- Half-hour program on Supreme Court Jurisdiction. (this was a ballot amendment question).
- Swearing in proceeding of two new Justices: Parker Lee MacDonald and James E. Alderman
- A segment on Fred Karl, using footage of the Court
- Plans to produce a half-hour documentary on the workings of the Florida Supreme Court



FLORIDA PUBLIC BROADCASTING

July 18, 1980

Ms. Linda O'Bryon
WPBT-TV
P. O. Box 610001
North Miami, Florida 33161

Dear Linda:

After our conversation of yesterday on the Supreme Court suit, I received the DACS from Deborah Werbner and decided to fill you in a bit more on our in-court coverage.

Some points to be made on the Florida Supreme Court tapings.... in all instances, we have handled the pool coverage on those items listed on the accompanying page. That means that, in all instances, the material has been distributed either through the daily satellite news feed or in our documentaries to all nine of the Florida PBS stations. Staffers or stringers who have patched into our distribution amplifier have represented up to as many as twelve commercial stations on a single story...or as many as 21 stations getting material from the court coverage.

Further, on the enclosed sheet, the dates listed on coverage are not always the EXACT day in which the coverage took place, but the air dates. The latter is true in the documentary presentations; it is same day coverage on feed material.

FYI, we are working with the Court to install permanent audio and video cables to a room below the chamber so that we may be even more unobtrusive than we ha ve been in the past. Heretofore, we have had our recording gear in a hallway outside the chamber.

Sincerely,

Harold Baker
Executive Producer

cc: Deborah Werbner
Dick Brown

FLORIDA PUBLIC BROADCASTING NETWORK COVERAGE OF COURTS:

7/8/77	Florida Supreme Court; Rutledge murder hearing; first case to be heard under cameras-in-the-courtroom test.
9/9/77	Florida Supreme Court; oral arguments on the Florida safe driver incentive plan; 16:10 used in a documentary.
9/16/77	Florida Supreme Court; Spenkelink murder case, used in weekend wrapup news show.
9/16/77	Leon County Circuit Court; same as above.
2/3/78	Florida Supreme Court; oral arguments on the state environmental and land management act.
2/3/78	Florida Media-Bar discussion in Orlando on cameras in the courts; approximately 20 minutes used in a documentary which included Supreme Court footage.
2/10/78	Florida Supreme Court; resignation of Justice Fred Karl; used file footage of his swearing in ceremony, activities in the court, and speculation on successor.
3/23/78	Have notes on story on Justice Joseph Hatchett, including interview, but no details on subject; Supreme Court footage used.
4/11/78	Florida Supreme Court; investiture of Justice James E. Alderman.
8/25/78	Constitutional Revision of Merit Retention; taped with Justice Ben Overton and Judge Tyrie Boyer at Supreme and Appellate Courts; used in revision program.
8/28/78	Florida Supreme Court; notes show FPBN provided pool coverage for all stations, but does not indicate subject.
9/1/78	Commission on Appellate Court Structure; organizational meeting in the Florida Supreme Court chamber, with Justices England and Overton. 8:33 story.
9/15/79	Half-hour documentary on death with dignity; entire program was based on oral arguments before the Florida Supreme Court and questioning by the Justices.
9/19/79	Commission on Supreme Court jurisdiction; Justices participated, and file footage from the Court.
10/26/79	Florida Supreme Court; investiture of J ustice Parker Lee McDonald.

FPBN - 2

12/14/79 Half-hour documentary on the death penalty, portions of which came from the Florida Supreme Court.

1/17/80 File video sent to the PBS stations upon request for use as background for Florida Supreme Court stories.

2/6/80 Florida Supreme Court; J ames Adams clemency hearing.

2/11/80 Florida Supreme Court; Douglas Meeks clemency hearing.

2/25/80 Second version of file footage sent to PBS stations for use in Florida Supreme Court stories.

2/28/80 Florida Supreme Court; Justice Arthur England has case load demonstration to support a proposed amendment on Supreme Court jurisdiction.

3/7/80 Half-hour documentary on a proposed constitutional amendment on Supreme Court jurisdiction, portions of which were shot in the Supreme Court and the Justices' chambers.

7/18/80 Half-hour documentary on a landmark case involving state environmental interests versus private development; oral arguments in the Florida Supreme Court and on-site taping near Fort Myers.

September or October: Plans already have been laid for a documentary on the Florida Supreme Court; probably a half-hour program.

Also, at this writing, plans are to cover a tax case caused by the last session of the Legislature on Monday, July 21. Can confirm after then.

There were a large number of other items associated with the Florida Supreme Court, such as interviews with Justices England, Sundberg, and Adkins, as well as Attorney-General Jim Smith, Governor Bob Graham, Attorney Tobias Simon, and others on the Supreme Court jurisdiction question...used in news and public affairs programs.

In addition, some of the Florida Supreme Court stories were fed to the national PBS news; we have no way of knowing for certain which ones were re-fed to the other stations.

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PUBLIC BROADCASTING SERVICE PBS 475 L'ENFANT PLAZA S W WASHINGTON D C 20024 (202) 488-5000

PUBLIC TELEVISION AT 1980
...in the forefront

January 1980

The seventies. For public television, it was a decade of change, a time of re-examination, experimentation and growth. In the 70's public television took the time to look ahead, while serving an ever-expanding public.

Ten years ago, less than two-thirds of the American people were able to receive a public television station. There were no reliable means of accurately measuring its audience. In 1970, there were about 200 public television stations. Today, public television, in the words of the Carnegie Commission, is a "national treasure"; its 283 stations have the potential to reach 87% of the American people. In the course of a month, nearly 50 million families regularly watch public television programs.

Ten years ago, there were just about 20 hours of national programming available each week for public television. Today, the public television schedule is a model of diversity, a forum for excellence, a proving ground for new and innovative programming. Much of the growth is attributed to a dramatically expanded financial base.

Each week, more than 90 hours of national programs are presented, including the best of the performing arts, a wide range of documentaries and in-depth news analysis, and a children's program line-up that has won public television the endearment of families across the nation and the world. And that's just the national picture. Local stations enhance this schedule with their own local arts and public affairs programs, coverage of community events and special instructional services.

Ten years ago, public television's total revenues were barely $100 million. Public television's income has since increased four-fold (over $460 million in FY 1978), in tandem with the rise of public support. More than 2.5 million families now contribute annually to their local public TV stations, accounting for over $65 million.

Ten years ago, public television was far from state-of-the-art: programs were passed from station to station through the mail, and equipment at many stations included antiquated transmitters and hand-me-down cameras. Today, public television is the first American television system to rely fully on satellites for national program distribution. It has pioneered multi-channel television sound, captioning for the hearing-impaired and major improvements in UHF broadcasting. In television technology, it has become the recognized trailblazer.

The story of public television in the 1970's is a story of an extraordinary transition. It began with public television as an obscure medium. Big on potential, high with expectations, but devastatingly short of resources and watched by relatively few. In just ten years it has become a mainstream force watched by millions, helping to set new standards for television programming in education, entertainment and public understanding.

1970

At the turn of the decade, noncommercial television was beginning to take form. The first noncommercial TV station, KUHT Houston, had been on the air for 17 years and was joined by 200 noncommercial TV stations. However, there was no efficient means of pooling resources for consistent quality programming nor for sharing existing programming. Also absent was a long-term federal commitment to help support non-commercial television.

That had begun to change, of course, before the 1960's had ended. Plans had already been made for the "educational" television system. The 1966 Carnegie Commission Report gave it a broader mandate -- a mission to serve all Americans with programs catering to specific, individual interests -- and a new name: public television. The Public Broadcasting Act of 1967, in great part a response to the Carnegie Commission's recommendations, gave public television a new foundation. It created the Corporation for Public Broadcasting (CPB) to nurture the system's development, provide a framework for regular federal support, insulate it from political interference, and create a national interconnection for the stations across the country.

Some stations like WNET New York, WGBH Boston, WETA Washington, D.C., KQED San Francisco, the South Carolina Educational Network, and KCET Los Angeles, had already developed production centers. And in October the system, with CPB's support, established a national program-distribution agency: the Public Broadcasting Service (PBS). Hartford N. Gunn, Jr., Vice President and General Manager of WGBH Boston, came to Washington to head-up this new organization as its first President.

PBS' initial program schedule (less than 20 hours per week, originating from 22 different production sources) was miniscule by today's standards, but it

included some of public television's finest hours. THE GREAT AMERICAN DREAM MACHINE, with its irreverent approach to current affairs, generated controversy, but also many new viewers. SESAME STREET gave rise to new thinking about what children's television can and should be. NET PLAYHOUSE and SAN FRANCISCO MIX provided innovative forums for the arts. Such public affairs series as BLACK JOURNAL, SOUL!, WASHINGTON WEEK IN REVIEW and THE ADVOCATES provided a chronicle of the current scene from a variety of perspectives. Julia Child gave cooking new meaning on THE FRENCH CHEF. Fred Rogers comforted millions of youngsters on MISTER ROGERS' NEIGHBORHOOD. And from Great Britain, Kenneth Clark's CIVILISATION and John Galsworthy's THE FORSYTHE SAGA established public television as a showcase for top quality programming from abroad as well as at home.

Funding austerity was a lingering concern, although there were encouraging signs. Total system revenues in 1970 amounted to $100 million -- nearly double the 1966 total of $58 million. And the federal appropriation to CPB -- $15 million in 1970 -- had tripled in just a year's time. Greater resources were being aggregated for program development, but public television was far from having the dollars necessary to realize its full potential and meet the very high programming expectations put on it.

1971

Buttressed by a new national structure and a gradually increasing (but by no means adequate) infusion of dollars, public television moved ahead. Sixteen new stations went on the air during the year. Total system income increased some 40%, to $140.8 million, with the CPB appropriation growing to $23 million. With the advent of new sources of direct production support from corporations and foundations, PBS transmissions expanded markedly, totaling 1,745 program hours in 1971 -- about 34 hours per week.

Principal among the new programs was MASTERPIECE THEATRE, which began with the historical biography, "The First Churchills." From the producers of SESAME STREET came a new series, THE ELECTRIC COMPANY, which showed youngsters how to read in entertaining fashion. SPECIAL OF THE WEEK, a weekly melange of documentaries cultural performances and contemporary arts, premiered with Frederick Wiseman's "Basic Training." HOLLYWOOD TELEVISION THEATRE began a regular presentation of first-rate drama. Humorist Jean Shepherd took a whimsical look at the nation's institutions on JEAN SHEPHERD'S AMERICA. Arthur Fiedler brought great music into America's living rooms with EVENING AT POPS. William F. Buckley, Jr. championed the conservative point of view on FIRING LINE. And public television demonstrated its remarkable flexibility in the coverage of special events with live, gavel-to-gavel coverage of the Senate Foreign Relations Committee hearings on Vietnam.

But there were clouds developing. The growth of hard-hitting public affairs programming on public television led, inevitably, to controversy. The 1971 National Educational Television (NET) special, "Banks and the Poor," identified 133 members of Congress and government officials with banking connections, and caused a furor in Washington. Sounds of discontent were strongest from the Nixon White House, which displayed particular ire over current affairs programs produced by Washington's National Public Affairs Center for Television -- some of it openly critical of the Administration. The President's concerns were capsulized in a November address before the National Association of Educational Broadcasters convention by Clay T. Whitehead, Director of the White House's Office of Telecommunications Policy. Whitehead cautioned station representatives against an alleged move toward "centralism" in public television with PBS playing the role of "fourth network." It was an indication of further conflicts down the road.

1972

Public television's controversial bent in public affairs continued to raise some eyebrows, but for the first six months of 1972 the system weathered the storm well. By the end of the year, 233 stations were on the air. The system's financial resources rose to $157.9 million. And, illustrating the dramatic progress in attracting audiences, A.C. Nielsen reported that over an eight week survey period, 36.1% of the nation's TV households tuned to public television -- an estimated 30% audience growth since PBS began in 1970. (Since 1974, public television's national audience has been calculated based on four-week surveys.)

Public television continued its pursuit of the classics with the debut of INTERNATIONAL PERFORMANCE, a series of outstanding cultural telecasts from France. Such film masterworks as "Grand Illusion" and "Battleship Potemkin" were presented on the new FILM ODYSSEY series. MASTERPIECE THEATRE offered Glenda Jackson in the magnificant "Elizabeth R." ZOOM! gave the nation's youngsters a chance to create a television program of their very own. Attention continued to be centered on current affairs, with such important premieres as BILL MOYERS' JOURNAL and the weekly journalism review, BEHIND THE LINES. Public television took on a heretofore taboo subject with "V.D. Blues," a national outreach special hosted by Dick Cavett. It spent a total of 37 hours at the 1972 Republican and Democratic National Conventions, and followed the Nixon-McGovern compaign on the weekly A PUBLIC AFFAIR.

The medium's inability to plan in the long term, due to the lack of a predictable financial base, continued to be a major cause for concern, and for action. Acknowledging that the year-to-year CPB appropriations established in the 1967 Public Broadcasting Act put a damper on future program development, Congress passed a revolutionary two-year funding bill that would provide the Corporation with a previously unheard of $155 million. It never came to pass.

In June, citing public television's alleged shift away from local concentration and toward the concept of networking, President Nixon vetoed the CPB funding authorization.

In the wake of the Nixon veto, relations between CPB and PBS broke down. An initial conflict arose over the Corporation's offer to fund a 22-hour program covering the Apollo 17 moonwalk project. PBS rejected the project, concerned that CPB was overstepping authority in the program selection process. The offer was ultimately withdrawn and negotiations were held between PBS and CPB over their respective roles in scheduling and program selection.

1973

In a year which showed public television viewers the real-life problems of the Louds in AN AMERICAN FAMILY, the family of public television was, for a while, involved in its own problems.

In January, the CPB Board unanimously passed a resolution which effectively asserted authority over the principal operations of PBS. The Corporation demanded full responsibility for all national programming and scheduling functions. Meanwhile, CPB announced its intention to withdraw funding for several PBS current affairs series, including WASHINGTON WEEK IN REVIEW, BILL MOYERS' JOURNAL and BLACK JOURNAL -- programs that had met with open White House disapproval.

The resulting station protest brought about swift changes in Washington. In March, station representatives voted to form a new representative body

consisting of the existing PBS; the Coordinating Committee of Governing Board Chairmen, a council of station lay leaders headed by Ralph Rogers of Dallas; and the Educational Television Station division of the National Association of Educational Broadcasters. The new organization, which retained the name Public Broadcasting Service, was unique in television. Owned, governed and partially funded by its member stations, the new PBS was given new duties by its member stations. PBS would continue to provide national program distribution and related program support services, but it would also represent the stations in Washington, D.C.

Within a month (May 1973) a new "partnership" agreement had been ratified by both PBS and CPB. In accordance with the "partnership" agreement, PBS retained jurisdiction over the national schedule and CPB gained greater control over program-funding decisions. More CPB funds were to be allocated directly to the stations. The two resolved to work together on matters of common concern.

The resolution of the PBS/CPB dispute had almost immediate positive effects for the system. In August, President Nixon signed a CPB funding bill calling for $130 million over two years, plus an additional $44 million for facilities improvement. For all of 1973, public television's income totalled $241.2 million, a sizable gain over the preceding year.

During 1973, Richard Nixon was to play another instrumental, albeit involuntary, role in public broadcasting's future. Throughout the summer, PBS gained considerable recognition with its prime time evening carriage of the Senate Watergate hearings. Watergate made many Americans aware of public television's offerings, such as THE TURNED-ON CRISIS, a sweeping study of America's drug problems; THE KILLERS, a series of reports on leading causes of death in this country; and "Juvenile Court," a disturbing documentary on the pitfalls of the court system for young offenders.

By the end of 1973, 211 public television stations were on the air.

1974

Public television broke new ground in its efforts to maximize the role of local stations in the governance of the national system by introducing a major shift in national program funding mechanics.

1974 saw the birth of the PBS-administered Station Program Cooperative (SPC), an unprecedented program marketing system which allowed each local licensee to select and, by pooling resources with the other stations, pay for a substantial portion of the national program schedule. Aided by the initial financial support of CPB and the Ford Foundation, the first "SPC" market financed roughly 10% of national programming. The emergence of the program cooperative as a principal program funding source, at the same time, permitted CPB to alter its funding posture from the role of program sustainer to that of developer. Concurrently, the Ford Foundation announced its intention to gradually withdraw its support to noncommercial broadcasting -- support which had been a major revenue source since public television's inception, amounting to nearly $500 million since 1952.

PBS accelerated work on several major technological projects, including the development of a system for captioning television programs for the benefit of hearing-impaired viewers; the development of the DATE (Digital Audio for Television) audio system, enabling the distribution of TV programs with up to four channels of high-quality sound; and of improved standards for UHF telecasting. The year also saw the creation of the Satellite Working Group, representing PBS, CPB and

National Public Radio, to study the feasibility of public broadcasting converting to program distribution via domestic communications satellite.

In line with the increased emphasis on strengthening the system at the local level, the Station Independence Program -- a project aimed at helping licensees gain visibility and non-federal financial support -- was established at PBS with Ford Foundation matching funds.

The year generated some of public television's most enduring series. GREAT PERFORMANCES provided a weekly showcase for the best in music, dance and drama. NOVA became the first national television series devoted to science. Public television gained a greater sense of immediacy in its performing-arts programming with the stunning concert series, IN PERFORMANCE AT WOLF TRAP. VILLA ALEGRE became America's first bi-lingual series, teaching youngsters understanding of Anglo and Latino cultures. And MASTERPIECE THEATRE presented the first of what was to be four remarkable seasons of "Upstairs, Downstairs." It was also a year of extraordinary specials. Major national outreach programs accompanied "Drink, Drank, Drunk" on alcoholism, and "Male Menopause: The Pause That Perplexes." And investigative reporting on public television reached new heights with "The Unquiet Death of Julius and Ethel Rosenberg."

For the first time, A.C. Nielsen reported that public television's national audience penetration in the course of a month had reached the 50% mark.

Public television income in 1974 totalled $166.6 million -- 80% of it coming from non-federal sources. And President Nixon, citing marked improvements in the system, called for a bill authorizing five years of long range federal funding for CPB.

1975

One of public television's most troublesome problems, the lack of a predictable financial base to aid in long-range planning, was overcome to some extent with the milestone Public Broadcasting Financing Act of 1975. The bill, quickly signed by President Gerald Ford, authorized five years of funding for CPB. Of equal importance, it made the availability of those funds contingent on public broadcasting's ability to match each appropriated federal dollar with $2.50 from non-federal sources. The matching formula had the dual effect of limiting the federal government's proportionate involvement in public broadcasting while giving the system an incentive to increase its support among the states, local governments, businesses, foundations and, particularly, the viewers themselves.

Toward that end, public television in March presented FESTIVAL '75, the first nationally-coordinated fund raising and public awareness campaign. Under the leadership of the PBS-administered Station Independence Program, the system raised some $6.3 million over an 11-day period of special, high visibility programming and local fund-raising appeals. The March FESTIVALS became an annual public television event.

Public television in 1975 demonstrated that excellent programming, backed by aggressive, effective promotion, can attract a major audience. A case in point was the March telecast of "The Incredible Machine," the first NATIONAL GEOGRAPHIC SPECIAL on PBS. Aided by a comprehensive multi-media campaign funded by Gulf Oil, "The Incredible Machine" attracted an equally incredible rating of 16% -- about 13 million households nationwide.

For programming, it was a banner year. Lee Remick sparkled as JENNIE: LADY RANDOLPH CHURCHILL. Public television viewers were able to earn college credit in conjunction with the dramatic anthology, CLASSIC THEATRE: THE HUMANITIES IN DRAMA. THE ASCENT OF MAN, Jacob Brownowski's dramatic study of anthropology, became an acclaimed PBS series. Renaissance art was probed in THE ROMANTIC REBELLION. Public television again broke new journalistic ground in its coverage of the Senate Select Committee hearings on the CIA. Specials on public television probed some of America's most pressing social problems -- breast cancer on "Why Me?", the welfare state on Frederick Wiseman's "Welfare," ghetto life on "Harlem: Voices and Faces," and the high cost of dying on "Since the American Way of Death." And the sensitive issue of mental illness was explored in the comprehensive series, THE THIN EDGE.

For the year, system income totalled $170.6 million.

1976

America's Bi-Centennial celebration and a hotly contested presidential campaign had heavy impact on the public television schedule in a year of significant growth. For the year, public television income reached $301.9 million -- a one-third increase over 1975 -- with major new funding commitments from both the public and private sectors.

In February, Lawrence K. Grossman, a commercial broadcasting and advertising veteran, became PBS's second President as Hartford N. Gunn, Jr., was named Vice Chairman of the Board. Grossman identified his first three priorities as "programming, programming and programming," stressing the need for greater efforts in public affairs, live coverage and ambitious new domestic productions.

Public television celebrated the Bi-Centennial with THE ADAMS CHRONICLES, its most expensive American-made dramatic production. Two veteran journalists, Robert MacNeil and Jim Lehrer, pioneered an entirely new concept in broadcast journalism -- the one-story-a-night newscast -- on the weeknightly MACNEIL/LEHRER REPORT. Independent producers found a major new national television forum for their work on DOCUMENTARY SHOWCASE. GREAT PERFORMANCES added choreography as a major new element to its cultural portfolio with "Dance in America." And the 1976 campaign was covered by public television in unprecedented fashion, with telecasts of the Presidential Forums sponsored by the League of Women Voters, the Ford/Carter debates, and innovative approaches to measuring public opinion on the weekly USA: PEOPLE AND POLITICS. After the elections, public television continued to follow Jimmy Carter's building of a new Administration with marathon coverage of the Cabinet Confirmation hearings in the Senate. For youngsters, public television introduced a major [illegible] series of specially commissioned animations on ONCE UPON A CLASSIC. VISIONS, the first television series showcasing original plays since the "Golden Age" of television in the 50's, began its first season. Dramatic specials such as "A Moon for the Misbegotten" and "Harry S. Truman: Plain Speaking" were major events of the television season. And Julie Andrews helped millions of Americans come to terms with the problems of children with learning disabilities on the outreach special, "The Hoper Children."

Looking ahead, stations gave their approval for the construction of America's first domestic communications satellite system for over-the-air television. And in a decision with far-reaching implications, the Federal Communications Commission authorized the use of the PBS-developed system of captioning programs for the hearing-impaired.

By year's end, 265 stations were on the air.

1977

Armed with perhaps the finest program schedule in its history, a mandate from Congress to seek out non-federal funding and the growing support of the American people, public television continued to raise its level of visibility. Two million American families became contributing station members, responsible for $45.2 million in system revenues -- a remarkable 335% increase in five years' time. In the course of a month, Nielsen reported, 42.8 million families tuned to public television with frequency. PBS' national program schedule topped $67 million in production and acquisition expenditures. Total system income climbed to $416.5 million.

Public television proved that, given the resources, its production capability ranked with the world's best. THE AMERICAN SHORT STORY became the first public television production to be purchased by the BBC. CTW (SESAME STREET, THE ELECTRIC COMPANY) broke the children's television mold with its production of THE BEST OF FAMILIES, a dramatic look at an American immigrant family at the turn of the century. SIX AMERICAN FAMILIES profiled people in widely constrasting life situations. For the first time, public television brought its cameras inside the famed Metropolitan Opera House for a live, full-length performance of the epic opera, "La Boheme." And it continued to showcase the very best from overseas: Derek Jacobi's magnificent portrayal of a stuttering Roman emperor in "I, Claudius" on MASTERPIECE THEATRE; Flaubert's ambitious dramatic chronicles on THE PALLISERS, and Liv Ullmann in Ingmar Bergman's masterful television production of SCENES FROM A MARRIAGE. Dick Cavett found a long-term home on public television for weeknightly interviews with luminaries from the worlds of art and literature on THE DICK CAVETT SHOW. Public television explored the confounding issue of rape and the law on the true-life drama, "The People Vs. Inez Garcia," and it helped promote understanding of the special problems of the handicapped in the outreach special, "Including Me."

The system began construction of the new satellite interconnection -- a $58.9 million undertaking which called for 149 receive-only ground terminals, a Main Origination Terminal near PBS's Washington headquarters, and five regional uplinks, to be connected via Western Union's WESTAR satellite.

As public television began to move out front in American communications, it became the object of increased scrutiny. After more than a decade since its first landmark study, the Carnegie Corporation announced the formation of a prominent new commission to study public broadcasting.

1978

In March the first segment of public television's satellite system was activated. With the satellite system fully in place by year's end, public television's programming could benefit from unprecedented flexibility. Where before PBS could transmit only a single program at any given time, it could now distribute three and often four channels simultaneously. For the first time, stations in remote areas such as Alaska, Hawaii and the Caribbean were linked to the rest of the system for instantaneous program delivery. With several transmission points in the system, national and regional programs could now originate from throughout the country.

Congress passed the second long-range funding bill: the Public Broadcasting Financing Act of 1978. This new legislation lowered the non-federal matching requirement to 2:1 and authorized CPB appropriations totalling $400 million in FY 1981-83. In the wake of 1977's highly successful "La Boheme," public television introduced LIVE FROM THE MET, a series of full-length Metropolitan

Opera performances. On an entirely different musical vein, public television journeyed to Nashville to present a full-length performance "Live from the Grand Ole Opry" -- for the first time on national television. Two extraordinary men --longshoreman artist Eric Hoffer and Hawaii's Father Damien, were profiled in "Eric Hoffer: The Crowded Life" and the original drama "Damien." Vladimir Horowitz was the first artist spotlighted in a series of memorable concerts live from the White House. Public television again raised eyebrows with three controversial, independently produced documentaries: "California Reich," on American Nazis; "The New Klan" on the newly active Ku Klux Klan, and "Word is Out," on homosexuality. World hunger was the topic of public television's first "Global Paper," a sweeping series of investigative reports on matters of paramount international importance. Frederick Wiseman's "Canal Zone" proved particularly timely as America debated Carter's proposed Panama Canal treaty. And, in celebration of public television's 25th year, the medium took time off for a light-hearted look at itself on "The Great American Dream Machine Revisited."

Newton N. Minow succeeded the retiring Ralph Rogers in the PBS chairmanship. In his inaugural address to station representatives in June, Minow noted that public television had become the focus of attention of government officials, outside observers and strategists, all as a result of progress and new-found popularity. It was time, Minow proclaimed, for the system to chart its own course for the decade which lay ahead.

1979...The End of a Decade

In January, the new Carnegie Commission on the Future of Public Broadcasting released the findings of its 18-month study. The 401-page report, "A Public Trust," made major recommendations for a newly designed system, including the replacement of CPB with a Public Telecommunications Trust, a new National Programming Endowment to encourage the development of quality programs and a national commitment to public broadcasting totalling $1.2 billion annually.

Meanwhile, public television pursued its own "Constitutional" initiative. A major study into public television's role in communications in the 80's was led by PBS Vice Chairman Hartford Gunn. At its annual meeting, the PBS member stations voted to create a new national structure. Capitalizing on the multiple-channel benefits of the new satellite system, the stations moved to reorganize PBS so that it could concentrate more on programming and related services. The "new" PBS would include three national program services:

One: prime-time, heavily promoted, high visibility, high quality series and specials. These programs would include major dramatic productions; timely, probing documentaries and public affairs programs; outstanding stage, concert hall and festival performances; programs on science and the universe; and comedy as well.

Two -- a special interest program service, providing programs of exceptional usefulness and relevance to target audiences, such as second-language series, programs of regional interest, vocational and skills series and minority audience efforts as well as a forum for long-form public affairs programs including gavel-to-gavel coverage of major Congressional hearings.

Three -- an educational program service that offers high-quality children's television, as well as educational and instructional programs for children and life-long learning for adults.

At the same time, the stations formed a new national association to take up the system planning and representation functions formerly assigned to PBS.

While this restructuring was going on, public television also put together one of the best program schedules in its history. 1979 was the year that public television enhanced its reputation for hard-hitting journalism, with specials like "Paul Jacobs and the Nuclear Gang," "The Energy War," "Palestine," "Rizzo" and "Tatooed Tears." It was the year that PBS offered an impressive parade of independently produced documentaries, such as "Black Man's Land," "Sinai Field Mission," "The Japanese," "Mr. Speaker: A Portrait of Tip O'Neill" and "An Act of Congress" plus many more. The Public Interest Video Network offered public television stations "live" coverage of the anti-nuclear demonstration in Washington, D.C. -- a first for PBS and independent producers, made possible by the satellite system.

No subject was beyond the reach of public television. Child abuse ("Raised in Anger"), drug addiction ("Methadone: An American Way of Dealing"), juvenile delinquency ("Bad Boys") and the plight of the displaced homemaker ("Who Remembers Mama?") were just some of the topics given exposure on public television.

It was the year that public television cameras went "live" for the Martin Luther King/Robert Kennedy assassination hearings, the Jupiter space launch, the signing of the Mideast Peace Treaty, the Carter Town Meeting in Elk City, Oklahoma, the DC-10 airplane hearings, and for special coverage of the Three Mile Island nuclear accident. PTV cameras were also there for the SALT debates and the UN Security Council debates on the Iranian crisis.

1979 saw public television carry virtually every major orchestra into the nation's living rooms: Boston, Los Angeles, Chicago, Minnesota, Philadelphia, Cleveland, Detroit, New York Philharmonic and the National Symphony. It was the same way with dance: Twyla Tharp, Alvin Ailey, the New York City Ballet, George Balanchine, the Joffrey, American Ballet Theatre, Martha Graham, Pilobous and the San Francisco Ballet. Audiences of unprecedented size saw performances by major opera companies, such as the Metropolitan, New York City and San Francisco.

Nathaniel Hawthorne's chronicle of Puritan America, THE SCARLET LETTER, gained critical and audience acclaim as one of public television's most ambitious productions. Curious links between the inventions of the past and modern technology were probed in CONNECTIONS. CAMERA THREE, for years a Sunday morning staple on CBS-TV, found a new home and evening time slot on public television. It was the year that public television added a new dimension of quality to entertainment with the dazzling Hollywood special, "Musical Comedy Tonight" and James Earl Jones' epic portrayal of the great Black artist and activist, "Paul Robeson."

Several new entries helped diversify the children's program lineup -- long a hallmark of public television. FOOTSTEPS was designed to help parents and children alike grapple with the tough "growing up" process. And RAINBOW'S END was especially important to hearing-impaired children.

No less than 50 nationally-recognized awards and honors were heaped on public television in 1979, including: three Alfred I Dupont/Columbia University Awards; five Action for Children's Television Achievement in Children's TV Awards; three George Foster Peabody Awards; two American Women in Radio and Television Commendation Awards; two Sigma Alpha Iota International Music Fraternity Awards; nine Ohio State Awards; seven Daytime Emmy Awards; twelve Emmy Award Nominations in the first-ever separate competition for national news and documentary programming; five Prime Time Emmy Awards; A Christopher Award, and two Media Awards for Economic Understanding.

1979 was also the year that the public television system undertook two historic initiatives -- "common carriage" and planning for the first-ever national "program fair" -- toward improving the effectiveness and development of national programming. An overwhelming number of stations supported "common carriage" of a scheduled block of highly visible national programs for the Fall, to maximize the effectiveness of public television's program promotion and give local PTV schedules increased exposure in the community. And plans unfolded for a "program fair" to exploit the best of the Station Program Cooperative (SPC) with the added excitement and benefit of a marketplace give-and-take.

Public television viewer support continued to grow with an unprecedented total of nearly $16 million received from the nationally-coordinated fund raising and public awareness campaign, FESTIVAL '79, held in March.

Public television's audience during 1979 reached new benchmarks both in terms of size and diversity. Over 45% of all U.S. TV households tuned to public television on a weekly basis (as measured in March 1979), with prime time viewing averaging between 18-24% of all homes. The greatest demographic gains for public television for 1979 included groups that heretofore have been under-represented in the PTV audience. Non-white households viewing public television (over a week's time) jumped to 37.3%; blue-collar homes rose to 42.9%, and homes headed by a non-high school graduate increased to 32.6%

At the close of the 1970's American public television had finally come into its own.

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Public television enters the 1980's with a nationally recognized program schedule of quality and diversity, with an improved financial outlook, with a structure designed for the new telecommunications age, and with the technically sophisticated system of satellite distribution.

In a decade of change and challenge, public television's achievements are best appraised in the words of the second Carnegie Commission report:

> "In less than a dozen years, among the most turbulent and pivotal in our history, public broadcasting has managed to establish itself as a national treasure. From the backwaters of an industry long dominated by commercial advertising, the public system has come into its own. Millions now watch...applaud, and criticize a unique public institution which daily enters their homes with programs that inform, engage, enlighten and delight. In that sense, the ideal has been realized: public broadcasting has made a difference."

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